THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.6356 of 2006

DATED:03.04.2006

Between:

Mohammed Azeemuddin ..Petitioner

And

The District Collector, Hyderabad District At Nampally, Hyderabad. and others. ..Respondents

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.6356 of 2006

ORDER:

The petitioner filed the present Writ Petition seeking a writ of Mandamus directing respondents 1 and 2 not to interfere with the possession of the petitioner in respect of the property in survey

No.403/120/9 (corresponding T.S.No.5) of Shaikpet Village, Hyderabad, admeasuring 1058 square yards. The land admeasuring about Acs.9.39 guntas originally belonged to one Sayanna, who was assigned the land in 1953. Sayanna divided the area into house plots and sold to different persons including Women's Co-operative Housing Society Limited ('the Society', for brevity). The Society purchased the land from Sayanna in 1972. It appears, there has been considerable litigation about the property in survey No.403/120/9. Be that as it is, the District Collector in purported exercise of power under Section 166-B of the Andhra Pradesh (Telangana Area) Land Revenue Act, 1317 Fasli ('the Act', for brevity), passed orders on 17-07-1985 under Laoni Rules cancelling the assignments made in favour of Sayanna and others. The persons, who are in occupation of the land, filed various writ petitions. At some stage, the matters went up to the Supreme Court and the Apex Court remanded the matters to this Court. Thereafter,, by a common judgment, dated 17-02-2006, in W.P.No.10440 of 1985 and batch and W.A.No.860 of 1989 and batch, this Court invalidated the proceedings of the District Collector under Section 166-B of the Act, observing that other controversies and *inter se* disputes between the parties shall be decided separately. The petitioner's vendors Smt. Shivella Sankaramma and Shivella Yadaiah were the appellants in W.A.No.560 of 1990, which was also one of the cases decided by the Division Bench.

The petitioner states that after purchase of the property, the Municipal Corporation of Hyderabad, the third respondent herein, assessed the same to property tax for Door No.8-2-293/82/W/42 and the vendors also executed the sale deed on 06-07-2000. It is further alleged that respondents 1 and 2 are making attempts to take possession of the property by using force. The petitioner, therefore, filed the present writ petition.

The matter was initially listed before this Court on 31-03-2006. The learned Assistant Government Pleader for Revenue (General) and the learned Standing Counsel for Municipal Corporation of Hyderabad sought time to get instructions in the matter. Today, after getting instructions, they made their submissions.

The learned counsel for the petitioner has taken this Court through the judgment of the Division Bench referred to hereinabove. He also placed reliance on the photographic evidence, dated 20-03-

2006, showing that the second respondent went to the petitioner's premises. The learned counsel submits that without due process of law, the second respondent demolished the existing compound wall. The learned Assistant Government Pleader for Revenue (General) submits that the Government is taking steps to file a special leave petition against the common judgment, dated 17-02-2006, in W.P.No.10440 of 1985 and batch and that a case being, L.G.C.No.268 of 1995, in respect of the land in T.S.No.5 is pending before the Special Court constituted under the Andhra Pradesh Land Grabbing (Prohibition) Act, 1982. He, therefore, submits that the Mandal Revenue Officer went to the site when the petitioner was making construction without obtaining any permission from the third respondent. The learned Standing Counsel for the Municipal Corporation of Hyderabad submits that the officials of the Municipal Corporation have not demolished any compound wall in premises bearing No.8-2-293/82/W/42 situated adjacent to the Society, Road No.5, Jubilee Hills, Hyderabad.

There is no denial that Sayanna was granted a patta under Laoni Rules. The same was cancelled by the District Collector by proceedings, dated 17-07-1985, which was set aside by this Court in W.P.No.10440 of 1985 and batch. Therefore, unless and until the judgment of this Court is set aside, there cannot be any objection for the petitioner claiming title over the land to an extent of 1058 square yards, which he purchased from the legal heirs of Sayanna. It is no doubt true that the third parties filed L.G.C.No.268 of 1995 claiming the property and even the competency of such LGC cannot give any cause to the second respondent to resort to high-handed action. Therefore, the complaint made by the petitioner before this Court is not without substance. It is needless to point out that a party to the proceedings before this Court, be it a public authority or otherwise, cannot deny the right of the successful party on the ground that such public authority is taking recourse to the appellate forum. That would amount to rendering the judgment delivered by this Court ineffective.

Therefore, this Writ Petition is disposed of directing respondents 1 and 2 not to interfere with the possession of the petitioner in respect of plot No.42 in T.S.No.5 of Shaikpet Village, Hyderabad, without due process of law. The learned counsel for the petitioner submits that the petitioner was only trying to protect the property by constructing the compound wall and he is not constructing

any residential house at present. The same is recorded. No costs.

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(V.V.S.RAO,J)

03.04.2006

GJ